



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

August 14, 1961

Honorable Sim W. Goodall
County Attorney, Hall County
County Courthouse
Memphis, Texas

Opinion No. WW-1113

Re: Authority of Commissioners Court to purchase existing hospital facilities for use as a county hospital; authority of Commissioners Court to employ counsel; authority for the creation of a hospital district in Hall County.

Dear Mr. Goodall:

Your letter of July 12, 1961, requests our opinion on the following six questions.

"#1. Is the commissioners court authorized to purchase existing hospital facilities with the proceeds from the sale of the hospital bonds?

"#2. Is the commissioners court authorized to employ an attorney at the rate of \$20.00 per hour to investigate the problems with regard to the construction of a County Hospital and to advise the court on legal issues? This legal fee to be paid by the county.

"#3. Out of which fund will the attorney's fees be paid?

"#4. Is it practical or legally possible to establish a hospital district within the boundaries of this county this year?

"#5. May the commissioners court delay the construction of a county hospital until such time as a hospital district is established?

"#6. Are the tax consequences and other facts stated in the inclosed FINANCIAL ANALYSIS prepared by the attorney employed by three of the commissioners correct?"

The powers of Commissioners Courts in regard to county hospitals are found in Article 4478, Vernon's Civil Statutes. Explicit power to "purchase or erect all necessary buildings," as is set out in that article, seems to us the clearest of authority for the purchase of existing hospital facilities.

In answer to your second question, we are of the opinion that the employment of an attorney in this instance was authorized. While a Commissioners Court may not retain an attorney for general legal services, it may employ an attorney for service in a particular matter that is of unusual public importance. Attorney General's Opinions Nos. 0-7474 (1946), 0-4955 (1942); 0-1372 (1939); Gibson v. Davis, 236 S.W. 202 (Civ.App. 1921); 15 Tex.Jur.2d 277, Counties, Sec. 48.

Fees for such legal services should be paid from the county's General Fund. Attorney General's Opinions Nos. 0-4955, 0-1372.

Your fourth and fifth questions relate to the establishment of a hospital district in Hall County. According to the United States Census of 1960, Hall County's population is 7,322. Legislation permitting the creation of hospital districts does not apply to counties with a population of less than 190,000, other than Galveston County. Article 4494n, Vernon's Civil Statutes; Texas Constitution, Article IX, Section 4. Although special provisions for the establishment of hospital districts in certain specified counties have been enacted in recent years, Hall County is not one of those so favored. Texas Constitution, Article IX, Sections 5, 6, 7 and 8.

Your sixth question is not within our province. This office is authorized to render opinions on questions of law only.

Honorable Sim W. Goodall, page 3 (WW-1113)

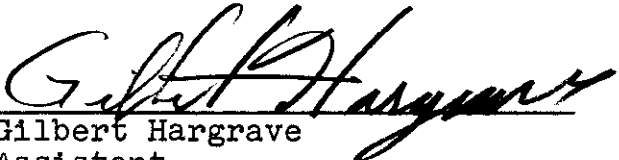
S U M M A R Y

The Commissioners Court of Hall County is authorized to purchase existing hospital facilities for use as a county hospital; and to employ an attorney for the special purpose of advising the Court in regard to legal matters relative to the construction of such county hospital. Fees for such legal services should be paid from the county's General Fund. No authority exists for the creation of a hospital district in Hall County.

Yours very truly,

WILL WILSON
Attorney General of Texas

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By 
Gilbert Hargrave
Assistant

APPROVED:

OPINION COMMITTEE
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REVIEWED FOR THE ATTORNEY GENERAL
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